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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X
EDWINA RANCE, ET AL,

PLAINTIFFS,

-against- Index No.:
18cv6923 (NSR) (JCM)

JEFFERSON VILLAGE CONDOMINIUM NO. 5 AND
MCGRATH MANAGEMENT SERVICES, INC.,

DEFENDANTS.
-----X

DATE: August 7, 2019
TIME: 9:48 A.M.

DEPOSITION the Defendant, JEFFERSON
VILLAGE CONDOMINIUM NO. 5, by a witness,
RICHARD FALCONE, taken by the Plaintiff,
pursuant to a Notice and to the Federal
Rules of Civil Procedure, held at the
offices of Diamond Reporting & Legal Video,
50 Main Street, White Plains, New York
10601, before Sandra Troiani, a Notary
Public of the State of New York.

1 R. FALCONE

2 the circumstances.

3 Q. Okay. Now, if a person wanted
4 the exception to the bylaws regarding the
5 age requirement of 55 years and older, do
6 they have to fill out a form or a document?

7 A. No specific form, no.

8 Q. Okay. Are aware of Ms. Rance's
9 medical limitations?

10 MS. THOMAS: Objection to the
11 form.

12 A. Excuse me?

13 Q. Are you aware of Ms. Rance's
14 medical limitations?

15 MS. THOMAS: Objection to the
16 form. It assumes that there are
17 medical limitations.

18 A. I'm not a doctor.

19 Q. Are you aware if Ms. Rance
20 could reside in her condominium unit
21 independently?

22 A. I can't. I'm not a doctor. I
23 have no idea.

24 Q. Well, have you received any
25 doctors' letters from Ms. Rance stating

1 R. FALCONE

2 that she cannot?

3 MS. THOMAS: You personally --

4 Q. You, meaning, JVC?

5 A. There were two letters, I
6 believe, we received allegedly from a
7 doctor.

8 Q. And why do you say, "allegedly
9 from a doctor"?

10 A. Because in our opinion, there
11 was discrepancies in the two -- the two
12 letters.

13 Q. And what were the
14 discrepancies?

15 A. The letterheads were different
16 and the signatures were different.

17 Q. And how were the letterheads
18 different?

19 A. Different information.

20 Q. Such as what?

21 A. I'd -- I'd have to have it in
22 front of me to tell you exactly what it
23 was.

24 Q. And you said the signature was
25 different?

1 R. FALCONE

2 A. Signatures in our opinion were
3 different.

4 Q. And who thought that the
5 letterhead were different or that the
6 signatures were different; who thought that
7 at JVC?

8 A. Who brought it up?

9 Q. Yes.

10 A. I don't remember. It was
11 brought up at a -- at a -- at a meeting
12 when the information was presented to us.

13 Q. And was it you who brought it
14 up or another board member?

15 A. It could have been me. It
16 could have been another board member. I
17 don't remember.

18 Q. Are you aware that Ms. Rance
19 was diagnosed with a generalize anxiety
20 order?

21 A. I don't know what she's been
22 diagnosed with.

23 Q. Have you read the letters?

24 A. I have read them, but I -- I
25 questioned -- I questioned them or we

1 R. FALCONE

2 questioned them.

3 Q. And you questioned for the
4 letterhead and because of the signature?

5 A. That is correct.

6 Q. Are there any other reasons why
7 you questioned the validity of letters from
8 Ms. Rance's medical providers?

9 A. No.

10 Q. Okay. So the board questioned
11 the --

12 A. No, wait a minute. The
13 letterheads were different. The
14 signatures, in our opinion, were different
15 and the coincidental or not, the text in
16 the messages was similar -- were the same
17 as those of Ms. Rance's computer and we
18 just questioned whether or not they were
19 valid.

20 Q. What do you mean similar to Ms
21 Rance's computer, the text?

22 A. Well, if you look at the type
23 face here, (indicating), and you look at
24 the type face --

25 MS. THOMAS: Referring to

1 R. FALCONE

2 Plaintiff's 13.

3 A. -- the front --

4 Q. Right. The front on

5 Plaintiff's 13?

6 A. Yes, the font on that -- that

7 particular letter --

8 Q. Right.

9 A. -- as in other communications

10 from her is the same as that from her

11 doctor and it just raised a little bit of a

12 flag.

13 Q. And why does that raise a flag,

14 if the fonts are the same, why is that

15 being suspicious?

16 A. Somewhat unusual.

17 Q. Okay. Doesn't everyone have

18 access to the same fonts who has a word

19 processor?

20 A. Sure, they do. Yes.

21 Q. So why is that suspicious if

22 it's the same font she shares with her

23 doctor or physician?

24 A. Coincidental. I -- it was just

25 something -- it was -- a question was

1 R. FALCONE

2 raised.

3 Q. Who raised that question about
4 the font?

5 A. Probably me.

6 MS. THOMAS: Off the record.

7 (Whereupon, an off-the-record
8 discussion was held.)

9 Q. Were there any board members
10 that said that JVC should not be
11 questioning the validity of the physician's
12 letters?

13 MS. THOMAS: Objection to the
14 form. You can answer if you
15 understand.

16 A. Repeat that please.

17 Q. Withdrawn. Let me go back to
18 what you said.

19 You said that JVC had questions
20 regarding the difference in letterheads,
21 there's a difference in signature and the
22 similarity in the font in the --

23 A. Yes.

24 Q. -- in the letters that Ms.
25 Rance provided from her medical provider?

1 R. FALCONE

2 A. Yes.

3 Q. Now, did any member of the
4 board say, well, we shouldn't be
5 questioning the letters. That's not a
6 reasonable concern?

7 MS. THOMAS: Objection to the
8 form. You can answer if you
9 understand.

10 A. I -- I don't know where you're
11 going, but there was unanimous agreement
12 that there was something wrong.

13 Q. Did anyone disagree?

14 A. No, that's what unanimous
15 means.

16 Q. Okay.

17 MR. BAHAMONDE: Would you mark
18 this as Exhibit 14.

19 (Whereupon, COVER DATED 11/8/16
20 was marked as Plaintiff's Exhibit 14
21 for identification as of this date by
22 the Reporter.)

23 Q. Now, I want to show you what's
24 been marked as Plaintiff's 14 for
25 identification. These are documents

1 R. FALCONE

2 provided by the attorney in disclosure --
3 in discovery of this case. They're Bates
4 stamped documents JVC-015 through 017.
5 Now, please take a look at that. Let me
6 know when you're finished.

7 A. (Witness complies.) Okay.

8 Q. Now, have you seen this
9 document before?

10 A. Yes.

11 Q. And what is it?

12 A. It's a cover letter from Ms.
13 Rance saying there were two documents
14 enclosed and there are two letters
15 allegedly from her psychologist.

16 Q. And the date of this letter is
17 November 8, 2016, correct?

18 A. That's the date of her letter,
19 yes.

20 Q. All right. And why did she
21 provide this confidential document for; are
22 you aware?

23 A. We -- we asked for
24 documentation on her -- she had claimed
25 health problems. We asked for

1 R. FALCONE

2 documentation. This is what she sent us.

3 Q. Why did Edwina Rance state to
4 the board that she had health problems, in
5 support of what?

6 A. In support of having her son
7 stay there.

8 Q. Okay. The next -- on JVC 16,
9 you see the letter from Dr. Eustace?

10 A. Yes.

11 Q. Okay. Now, compare 16 to 17,
12 JVC 16, JVC 17.

13 A. Yes.

14 Q. Were these two documents the
15 ones that are questionable to you, the
16 letterhead and the signature?

17 A. Yes.

18 Q. Well, show me the reasons why
19 you questioned these letters?

20 MS. THOMAS: Objection to the
21 form. Can you state the reasons?

22 A. A standard letterhead -- the
23 letterheads are different for starters.
24 One has different numbers, one has a
25 telephone number. The signatures are

1 R. FALCONE

2 different. One is signed Thomas, one is
3 signed Thomas D and as far as I know,
4 doctors always, always sign documents the
5 same way and this looked -- the signatures
6 looked different. They look like they were
7 written by two different people, let me put
8 it that way.

9 Q. Now, you said as far as you
10 know, doctors sign their signature the same
11 way and what is that based on?

12 A. Prior -- if I -- I've always
13 recognized my -- my doctor's signature.

14 Q. And your doctor doesn't sign
15 differently?

16 A. Never signed it differently
17 that I know.

18 Q. And if the doctor signs
19 differently, does that make something
20 invalid, in your opinion?

21 A. If he signs it, it doesn't make
22 it invalid. Again, we found them
23 questionable. We questioned her and she
24 did not follow up.

25 Q. Now, on -- you see on 16 -- JVC

1 R. FALCONE

2 16, the signature, Thomas, do you see that
3 on JVC --

4 A. Yes.

5 Q. And now look at JVC 17, top,
6 the signature -- the first -- the word,
7 Thomas, do they look different to you?

8 A. The word Thomas in the two
9 signatures?

10 Q. Yes.

11 A. Somewhat, yes.

12 Q. And what's different about
13 them?

14 A. The loop on the letter T. I'm
15 not an expert in handwriting and on the --
16 the end of it, there's an A on one and a
17 blurb and this one it's an A and what looks
18 to be an S.

19 Q. All right. And you also
20 testified that the letterhead is different
21 --

22 A. Yes.

23 Q. -- and that raised -- raised
24 the board's suspicion; is that accurate?

25 A. Yes.

1 R. FALCONE

2 Q. Now, why did that raise
3 suspicion; having two different letterhead,
4 why would that raise the suspicion of the
5 contents of that letter being -- may be
6 questionable?

7 A. Because it's -- it's different
8 information on the two of them and I would
9 think that any doctor would have -- and I
10 don't know what it's supposed to be, but
11 they would have identical information on
12 both. You don't change letterheads and
13 then change information also.

14 Q. Why not?

15 A. Just an opinion.

16 Q. And you said that was a
17 unanimous opinion from the other board
18 members also?

19 A. Yes, it was.

20 Q. Now, did anyone at the board
21 contact Dr. Eustace and ask him about his
22 signature or the letterhead, the questions
23 of that?

24 A. No.

25 Q. Why not?

1 R. FALCONE

2 A. It wasn't our job to call --
3 call a doctor.

4 Q. But wasn't Ms. Rance's request
5 for an accommodation to the board?

6 MS. THOMAS: I'm sorry?

7 Q. Wasn't Ms. Rance reporting her
8 request for an accommodation to the board
9 with these letters?

10 A. Yes.

11 Q. And you said you were --

12 A. If -- if we were to do this it
13 would be through our attorney, not -- not
14 -- not personally.

15 Q. You said, "if we," if JVC would
16 have done what?

17 A. Contact the doctor; we would
18 not personally contact the doctor.

19 Q. Why not?

20 A. Why?

21 MS. THOMAS: He just answered
22 your question.

23 A. I just answered your question.
24 We would pass that to our attorney.

25 Q. But why would you pass it to an

1 R. FALCONE

2 attorney; why would JVC decide not to make
3 the call themselves?

4 A. Because I don't think it's our
5 -- we're in a position to question
6 somebody's doctor. A doctor is going to
7 claim privilege. Why should I -- there's
8 no reason for me to call the doctor.

9 Q. And what does that mean to you,
10 claim privilege; what does that mean? The
11 confidential --

12 A. Doctor confidentiality. I'm
13 gonna -- yo, doc.

14 Q. So the contents of the letter
15 regarding Ms. Rance's medical condition,
16 that's confidential, correct?

17 A. Between her and her doctor, I
18 would assume, yes.

19 Q. Right. How about the letter,
20 is that confidential, the doctor's letter?

21 A. No --

22 Q. How about --

23 A. -- that letter is a standard
24 piece of paper.

25 Q. How about a signature on -- a

1 R. FALCONE

2 doctor's signature, is that confidential
3 information, a signature?

4 A. No, not to me.

5 Q. So then --

6 A. It's the content that counts.

7 Q. Right. So --

8 A. I would not be privy to the
9 content of a letter between her doctor and
10 her.

11 Q. So if you questioned a doctor
12 regarding the heading or the signature, as
13 you said it was not confidential
14 information so what's the problem? What --

15 A. No, because it's --

16 MS. THOMAS: Note my objection.
17 Counselor, are you saying that you're
18 authorizing JVC 5 to contact Dr.
19 Eustace?

20 MR. BAHAMONDE: No, I'm asking
21 him why --

22 MS. THOMAS: No, that is the
23 question. Is that what you're
24 authorizing?

25 MR. BAHAMONDE: Right. I said,

1 R. FALCONE

2 no, why didn't you contact Dr.

3 Eustace regarding --

4 A. You're asking me to pick apart
5 a letter and say, well, doc, you can talk
6 to me about this, you can talk to me about
7 this, but you can't talk to me about this.
8 I'm not in a position to do that. Anything
9 that has to do with these situations should
10 be and is handled through our attorney.

11 Q. Now, did JVC ask its attorney
12 to contact Dr. Eustace to question him
13 about the letterhead?

14 A. We did not ask him to -- ask
15 our attorney to contact Dr. Eustace
16 directly to my knowledge.

17 MS. THOMAS: Note -- objection
18 to any line of question that would
19 call for any privilege communication
20 between JVC 5 and his attorney.

21 MR. BAHAMONDE: Right.

22 Q. Has JVC asked anyone to contact
23 Dr. Eustace regarding the signature, to
24 question the doctor whether it is his
25 signature on the letter?

1 R. FALCONE

2 A. We had not personally contacted
3 Dr. -- Dr. Eustace.

4 Q. Has JVC 5 asked anyone to
5 contact Dr. Eustace on their behalf
6 regarding the signature on both of these
7 letters?

8 A. Not directly.

9 Q. What do you mean, "not
10 directly"?

11 A. To contact the doctor. There
12 was communication between our attorney and
13 her attorney of record regarding this
14 documentation I believe and that's the way
15 it was handled.

16 MS. THOMAS: And by counsel, it
17 was requested on the record that Ms.
18 Rance provide an Arons authorization
19 so that contact can be made directly
20 to Dr. Eustace.

21 MR. BAHAMONDE: Could you read
22 that back by the attorney.

23 (Whereupon, the referred-to
24 attorney comment was read back by the
25 reporter.)

1 R. FALCONE

2 Q. I want to draw your attention
3 to JVC 16, same page. It's the letter
4 dated January 21, 2016 from Dr. Eustace.
5 Now, have you read the contents of this
6 letter starting with to whom it may
7 concern, ending with sincerely yours; have
8 you read those words before?

9 A. Yes.

10 Q. And have you read them before
11 today?

12 A. Yes.

13 Q. Did you read them when Ms.
14 Rance gave them to the board?

15 A. Yes.

16 Q. Okay. Now, did you question
17 any of what is said there?

18 A. We did not question the
19 content. We questioned the validity.

20 Q. What do you mean by that, we
21 questioned the validity?

22 A. We -- the two documents were
23 presented at the same time. We looked at
24 the two. We -- what one said and what the
25 other said was irrelevant as far as we were

1 R. FALCONE

2 concerned because we didn't believe that
3 they were both from the same individual
4 which we questioned through our attorney to
5 her attorney.

6 Q. So what happened after the
7 board received this document from Ms. Rance
8 with the two supporting physicians'
9 letters?

10 A. As I said before, we questioned
11 whether or not they were written by the
12 same individual. We passed this on --
13 information onto our attorney who was in
14 contact with her attorney regarding the
15 status of this situation.

16 Q. And that was in November of
17 2016?

18 A. I don't remember when it was.

19 MR. BAHAMONDE: Mark this
20 please.

21 (Whereupon, LETTER DATED 5/5/17
22 was marked as Plaintiff's Exhibit 15
23 for identification as of this date by
24 the Reporter.)

25 Q. I want to show you what's been

1 R. FALCONE

2 Edwina Fryer Rance is under my medical
3 care, I have seen her recently for
4 increased anxiety and panic attacks. She
5 has a history of a generalized anxiety
6 disorder. She has increased anxiety in the
7 evening and at night and her son's presence
8 at home helps her with this. It is
9 necessary for her to have an aid at night
10 to help her -- the above mentioned
11 symptoms. She does not have the resources
12 to hire an aid, hence, her son's presence
13 in her home is necessary." Do you see
14 that?

15 A. Yes.

16 Q. Do you question the validity of
17 this letter?

18 A. Nope.

19 Q. Do you question the medical
20 opinion of the doctor in this letter?

21 A. I don't know what he is a
22 doctor of. Is he a --

23 Q. And why does that matter?

24 A. Well, because physicians in
25 general treat physical ailments.

1 R. FALCONE

2 Psychiatrist/psychologist treat mental
3 ailments. I don't know what this man's or
4 a woman -- I don't know if it's a man or a
5 woman.

6 Q. So you're unaware of what Dr.
7 Uppal's specialty is?

8 A. No idea and I don't understand
9 how Dr. Uppal could state emphatically, she
10 does not have the resources. He's just
11 repeating what she told him.

12 Q. Did you ask Edwina Rance for
13 her financial records? By you, I mean --

14 A. Her attorney was asked -- her
15 attorney was asked for a lot of information
16 and then her attorney dropped off the face
17 of the earth, I guess.

18 Q. Do you know what happened?

19 A. I have no clue because we got
20 -- we got no response. We asked for
21 specific -- through our attorney, asked for
22 specific documentation which was never
23 provided and it was not -- the information
24 was not to be just sent to the board. It
25 was for the attorney's eyes only.